

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

GEORGIA ANDERSON, ET AL.,

PLAINTIFFS,

VS.

CIVIL ACTION NO. 4:02CV00055-P-B

**FIRST FAMILY FINANCIAL SERVICES,
INC., ET AL.,**

DEFENDANTS.

ORDER

This matter comes before the court upon Defendant First Family Financial Services, Inc.'s Motion to Dismiss Certain Plaintiffs for Lack of Standing [112-1]. Upon due consideration of the motion and the response filed thereto, the court finds as follows, to-wit:

The motion should be denied as moot with regard to Shirley Watson, Margaret Ann Shelton, Dennis Roberts, Rosie L. Rice, Felix Washington, Myertis Washington, Sherry A. Wells, Kenneth Smith, Jacqueline Franklin Causey, Teresa Cooper, Dina Creel, Valerie Fairley, Arnold Lee, Carla D. Hicks, Floyd Manning, Hilton Crumb, Almeter McKnight, Kimberly Smith, Jacqueline Crumb, Kathy McCord, Manuel D. Longoria, Bonita McShan, Mack Chandler, Rosie Walls, and Nekesha Jefferson because the claims of these plaintiffs have been dismissed by prior order of the court.

The motion should be denied as moot regarding Melvin Nix, Luretha Reid, Jennie Ware, Susie Williams, Ralph Simmons, Leflora Simpson, Florence Smith, Jeanette Thomas, Maxine Reed, L.P. Nash, Shirley Watson, Virginia Green, Linzell McFarland, and Bobby J. Turner because there are no such plaintiffs listed in this action.

The motion should be granted, however, with respect to the claims of James Butler, Lynn Hogan, Joanna Jackson, Alice Haymer, Oria Clark, Carol Williams, Rosa L. Sykes, Barbara Cox,

Brenda Lee Jones, Roy Cummings, Mark Prince, Ella Carr, Mark A.Prince, Ethel Mae Johnson, Lynn Hogan, Lanetta J. Manning, Janet Golliday, Clara Cooley, Sue Cook, Elois Butler, Darlene Holmes, Waver Holmes, Robert Johnson III, Richard R. Jones, Maneka Griffen, Bobby J. Turner, Mildred King, and Debbie Cross.

The motion to dismiss should be granted against the subject plaintiffs because (1) their claims accrued prior to filing their respective bankruptcy petitions (thus making the claims property of their bankruptcy estates); (2) none of those petitions listed their claims on the bankruptcy schedules as required by law; (3) none of the Bankruptcy Trustees formally abandoned the plaintiffs' claims; thus (4) the appropriate Trustees are the real parties in interest under Fed. R. Civ. P. 17, not the subject plaintiffs; and (5) none of the Trustees joined in the present action to assert any of the subject plaintiffs' claims.

The plaintiffs have cited no binding authority supporting their contention that the informal methods of abandonment proffered suffice to satisfy 11 U.S.C. § 554. Nor have they supplemented the record with any additional information regarding formal abandonment with respect to all of the plaintiffs referenced in their response. Indeed, the plaintiffs have had more than adequate time to so supplement the record or to otherwise object to the Bankruptcy Trustees being deemed the real parties in interest pursuant to Rule 17(a) but have chosen not to do so. While it is true that there is a motion pending in this case since June 15, 2005 for an extension of time to supplement the record with same, counsel is aware that the court granted an identical motion in another identical case, *Adams, et al. v. Citifinancial Corp., et al.*, Cause Number 4:02CV54, yet the record was never supplemented in that case nor in another identical case, *Carpenter v. Kentucky Finance Company, Inc., et al.*, Cause Number 4:02CV55.

In addition, since it is undisputed that the subject plaintiffs filed their bankruptcy petitions without listing the instant claims on their bankruptcy schedules as required by law, their claims should be dismissed with prejudice.

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Defendant First Family Financial Services, Inc.'s Motion to Dismiss Certain Plaintiffs for Lack of Standing [112-1] is hereby **GRANTED IN PART AND DENIED IN PART AS MOOT** as discussed above; accordingly,

(2) The claims of James Butler, Lynn Hogan, Joanna Jackson, Alice Haymer, Oria Clark, Carol Williams, Rosa L. Sykes, Barbara Cox, Brenda Lee Jones, Roy Cummings, Mark Prince, Ella Carr, Mark A. Prince, Ethel Mae Johnson, Lynn Hogan, Lanetta J. Manning, Janet Golliday, Clara Cooley, Sue Cook, Elois Butler, Darlene Holmes, Waver Holmes, Robert Johnson III, Richard R. Jones, Maneka Griffen, Bobby J. Turner, Mildred King, and Debbie Cross are **DISMISSED WITH PREJUDICE**.

SO ORDERED this the 26th day of October, A.D., 2005.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE